



NEW YORK
STATE OF
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**Department
of State**

2018 ANNUAL REPORT
ACTIVITIES OF THE
DIVISION OF CONSUMER PROTECTION

Pursuant to Section 94-a(5)(a) of the Executive Law

FOR SUBMISSION TO:
TEMPORARY PRESIDENT OF THE SENATE ANDREA STEWART-COUSINS
SPEAKER OF THE ASSEMBLY CARL E. HEASTIE

April 5, 2019

Andrew M. Cuomo
Governor

Rossana Rosado
Secretary of State

INTRODUCTION

In compliance with the requirements set forth in Executive Law § 94-a (5) (a), the Department of State (“Department”) respectfully submits this report regarding the activities of the Division of Consumer Protection (“Division”). This report covers the period of January 1, 2018 through December 31, 2018.

During the reporting period, the Division accomplished its goals of educating and protecting the public by: (1) providing direct assistance and mediation to resolve marketplace complaints; (2) delivering mitigation assistance for victims of identity theft; (3) conducting education campaigns related to scam prevention, identity theft prevention, financial literacy, and product safety; (4) advancing cost effective and quality electric, gas, telephone, and cable service by representing consumers at utility rate and policy proceedings before State and federal regulators; and (5) enforcing the State’s Do Not Call Law (“DNC Law”).

CONSUMER ASSISTANCE UNIT

Executive Law § 94-a (3) (a) (1) charges the Division to “receive complaints of consumers, attempt to mediate such complaints where appropriate, and refer complaints to the appropriate unit of the department, or federal, state, or local agency authorized by law for appropriate action on such complaints.” This statutory mandate is met through the Consumer Assistance Unit (“CAU”). The CAU operates a Consumer Assistance Helpline five days per week, 8:30 a.m. to 4:30 p.m. Consumers also have the option of filing a consumer complaint electronically 24 hours per day, seven days per week, via the Department’s website. Among other issues, the CAU mediates and resolves complaints regarding product refunds and returns, credit card disputes, debt collection and consolidation practices, internet services, cellular services, credit report errors, and identity theft mitigation.

In 2018, the CAU staff handled 15,223 complaints and inquiries. These activities returned over a million dollars to the wallets of New York consumers. Specifically, \$977,826 expended by consumers was returned, and \$92,086 in obligated consumer costs were eliminated. A chart of the top ten consumer concerns addressed in 2018 is contained in Appendix A.

IDENTITY THEFT PREVENTION AND MITIGATION PROGRAM

Executive Law § 94-a (3) (a) (9) directs the Division to “establish a process by which victims of identity theft will receive assistance and information to resolve complaints,” which includes promulgating rules and regulations to administer the identity theft prevention and mitigation program.

On May 2, 2018, the Division adopted Identity Theft Prevention and Mitigation Program Regulations to hold consumer credit reporting agencies accountable and better assist consumers navigating their credit report, which is the most critical financial imprint created by the consumer credit reporting agencies. Subsequently, 15 consumer credit reporting agencies registered with the Division.

In September, the Division also issued a Control Your Credit Consumer Alert, to notify consumers of a federal law change creating yearlong fraud alerts and completely free security freeze opportunities for all New Yorkers.

OUTREACH AND EDUCATION PROGRAM

Executive Law § 94-a (3) (a) (3) directs the Division to “initiate and encourage consumer education programs.” In 2018, the Division provided presentations on Identity Theft Prevention and Mitigation, Scam Prevention, Financial Literacy, the DNC Law, and Product Safety. The Division delivered live seminars to community groups, organizations, and educational institutions across the State, a list of which is provided in Appendix B. The Division also educated consumers by utilizing social media channels Facebook and Twitter, issuing consumer alerts and contributing to Statewide consumer media coverage.

In 2018, the Division’s Outreach and Education Unit participated in 42 events statewide, reaching approximately 40,000 consumers. Appendix C enumerates these statewide activities in a map by county and region.

The Division also created the “New York Consumer Guide to Weathering a Storm” to assist consumers in the Southern Tier and Finger Lakes, after the August 2018 storm and flooding events tragically destroyed homes in the affected communities. The Division collaborated with the Emergency Management Unit of the Division of Building Standards and Codes to facilitate the timely dissemination of the guide to affected consumers.

Additionally, for nearly two weeks the Division actively engaged consumers from across the State at the New York State Fair. The Division listened to consumers’ marketplace concerns, facilitated consumer complaint filings and promoted the expansion of its Outreach and Education presentations across the State. During this period, the State Fair set an all-time high attendance record 1,279,010.

DO NOT CALL ENFORCEMENT PROGRAM

The New York State DNC Law became effective in 2001, allowing consumers to place their home landline and personal mobile telephone numbers on a central registry to reduce the number of unsolicited telemarketing calls they receive. In 2003, the Federal Trade Commission (“FTC”) and the Federal Communications Commission collaborated to create the National Do Not Call Program and Registry. As a result, New Yorkers started registering their home and mobile phone numbers on the National Do Not Call Registry and filing complaints using the FTC’s website.

In 2018, the Division prioritized a comprehensive review of the Do Not Call Enforcement Program (“Program”). The review yielded significant enhancements, including the hiring of an administrative staffer, an attorney, and a former telemarketing executive to serve as the Program’s lead investigator. Subsequently, the Program developed a new database to track enforcement efforts, significantly expanding the Division’s ability to address DNC complaints as well as track metrics and key performance indicators.

Using the National Registry to retrieve the complaints of aggrieved New Yorkers, the Division investigated 34,864 alleged violations with the goal of ending unlawful conduct. As of December 31, 2018, there were 15,104,715 New York telephone numbers on the National Registry, an increase of 318,145 telephone numbers over the previous year. Despite the increase in registrants, New York saw a decrease in consumer complaints concerning violations of the Do-Not-Call Law with 363,668 in 2018, compared to 468,092 in 2017.

UTILITY INTERVENTION UNIT

Executive Law § 94-a (4) (b) sets forth the powers and duties of the Utility Intervention Unit (UIU). The UIU is generally charged with representing the interests of consumers before federal, state, and local agencies engaged in the regulation of energy, water, and telecommunication services. UIU staff participates in cases before the Public Service Commission (PSC), the New York Independent System Operator (NYISO), and the Federal Energy Regulatory Commission (FERC). UIU staff also participates in several utility and energy-related interagency working groups, task forces, and committees, including the Low Income Forum on Energy Steering Committee, Home Energy Assistance Program Interagency Task Force, Natural Gas Reliability Advisory Group, Chairperson of the Targeted Accessibility Fund, and National Association of State Utility Consumer Advocates.

In 2018, UIU analyzed documents, submitted testimony and briefs, engaged in settlement discussions in cases before the PSC, and actively attended evidentiary hearings and settlement negotiations. The UIU serves as the designated, sole statewide consumer advocate at the NYISO, which oversees the wholesale electricity markets in New York, and is a voting member on several of the NYISO's decision-making committees. In that role, the UIU assists in developing rules and procedures that help ensure an adequate supply of reasonably priced electricity exists in the State.

During 2018, the UIU participated in 28 PSC utility rate and policy proceedings, as noted in Appendix D. In each of the rate proceedings, the UIU advocated aggressively on behalf of consumers with the goal of limiting the utilities' proposed rate increases with a focus on customer service, cost of service, revenue allocation, and rate design. It is important to note that utility rate cases are lengthy processes. An entire utility rate case is generally an eleven-month process where the first four months focus on conducting discovery, analyzing responses, and developing testimony. While each case is unique, once initial and rebuttal testimony is filed the remaining months are spent on settlement negotiations, drafting a joint proposal, evidentiary hearings, initial and reply briefs. In each of the policy proceedings, the UIU focused on a variety of consumer-related issues such as mass-market rate design, energy service provider abuses and overcharges, and growth in the distributed energy resources market.

Beginning in October 2017, the NYISO initiated the Integrating Public Policy Task Force (IPPTF) effort, tasked with evaluating how to incorporate the cost of carbon into the wholesale energy market. This effort evaluates alternative market mechanics and its interactions with other wholesale market processes. Over the course of 30 meetings held in 2018, IPPTF explored market issues that will potentially touch on all the aspects of the wholesale energy markets, including energy, capacity, and planning. UIU's wholesale energy consultant conducted an analysis to evaluate the direct economic and bulk power system impacts of implementing a carbon charge through the NYISO markets. Performance metrics were selected to characterize the impact of the carbon charge on the market, consumers, and economic efficiency. The consultant's findings challenged some of the design assumptions of the NYISO and led to improvements to the NYISO's straw proposal design.

CONSUMER MARKETPLACE SAFETY

CHILDREN'S PRODUCT TESTING

Executive Law § 94-a (3) (a) (11) grants the Division the power and duty to "conduct product research and testing and, where appropriate, contract with private agencies and firms for the performance of such services." In 2018, the Division conducted a child product safety testing

campaign to ensure compliance with applicable New York State and federal safety standards. All testing was conducted by a third-party Consumer Product Safety Commission (“CPSC”) accredited laboratory.

A random sampling of 10 children’s toys found all products tested compliant with applicable New York State and federal safety standards. All products were tested for lead and phthalates. Where appropriate, specific products in the sampling were tested for mechanical hazards. The positive compliance results served as a safety assurance for the State’s children’s product consumers.

CONSUMER PRODUCT SAFETY COMMISSION DESIGNEE ACTIVITIES

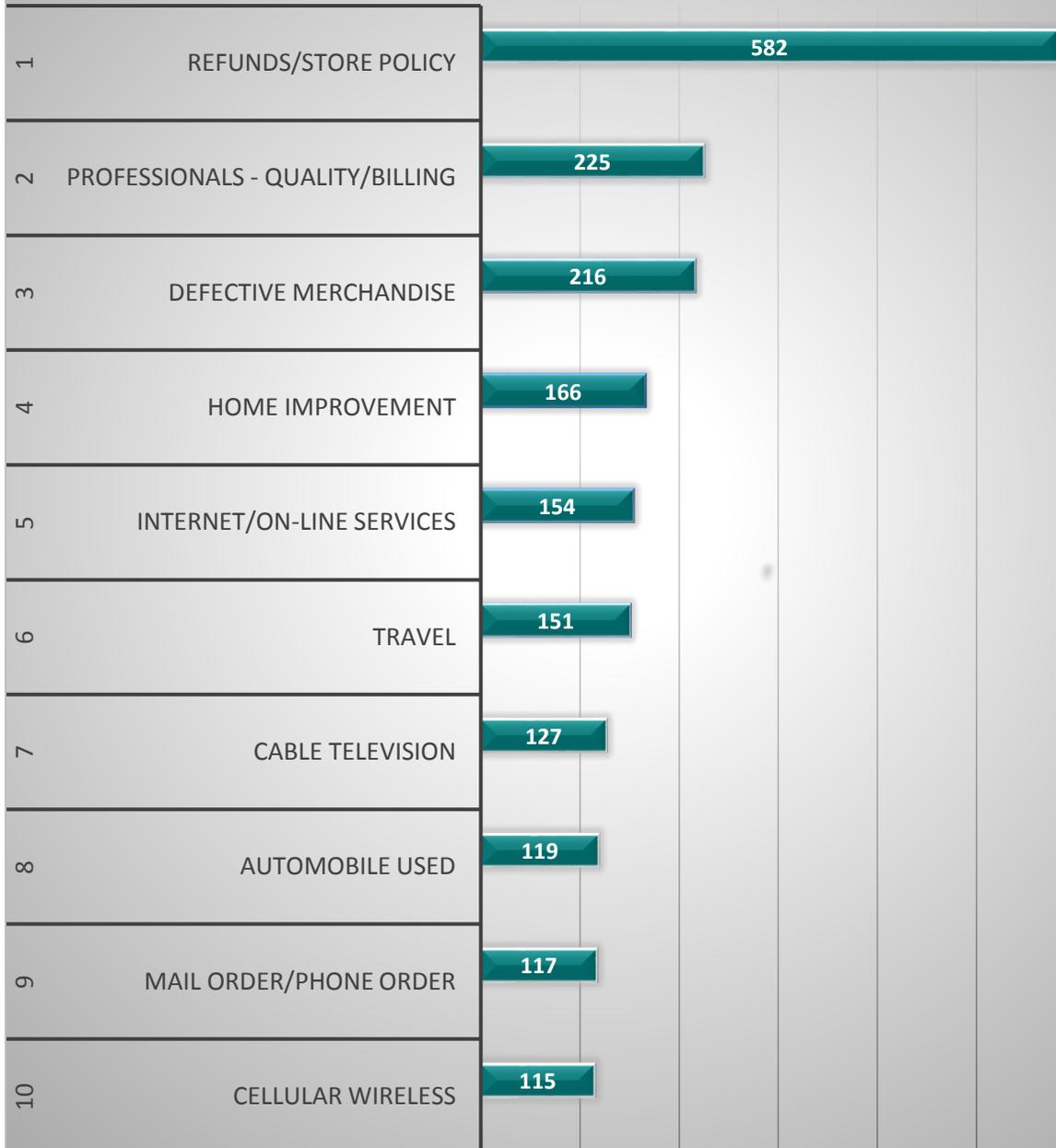
The Division serves as the CPSC’s New York State designee for product safety. Together, the Division and the CPSC work to promote product safety programs throughout the State. In this role, the Division conducted 28 recall effectiveness checks in 2018.

CONCLUSION

In 2018, the Division successfully carried out its numerous charges set forth in Executive Law 94-a. Whether mitigating harms that have occurred or educating consumers to prevent future harm, the Division serves to assist and protect consumers navigating the ever-changing marketplace.

APPENDIX A

2018 Top Ten Categories of Consumer Assistance



APPENDIX B

Division of Consumer Protection 2018 Outreach Events and Presentations

January

1. Public Service Commission Lunch & Learn – Albany County
Topic: Equifax Data Breach

February

2. NYS Association of Black and Puerto Rican Legislative Caucus – Albany County
Topic: All DCP Educational Materials
3. Annual Conference of the New York Association of Towns – New York County
Topic: All DCP Educational Materialsⁱ
4. Governor's Prayer Breakfast – Albany County
Topic: All DCP Educational Materials

March

5. Hannaford Kidz Expo – Albany County
Topic: Tip Over Prevention
6. National Consumer Protection Week with United States Postal Inspection Service – New York City
Topic: Child Identity Theft Privacy Online
7. SOMOS El Futuro Conference – Albany County
Topic: All DCP Educational Materials
8. Long Island Library Resources Council, Plainview-Old Bethpage Public Library – Nassau County
Topic: Protecting your Financial Information, Identity Theft and Scam Prevention
9. Long Island Library Resources Council, Rockville Centre Public Library – Nassau County
Topic: Protecting your Financial Information, Identity Theft and Scam Prevention

April

10. Susquehanna Valley Senior Citizens – Otsego County
Topic: Identity Theft Prevention
11. New York State Clerks Association – Albany County
Topic: Identity Theft Prevention

May

12. NYS Senator Sue Serino District Outreach (Poughkeepsie) – Dutchess County
Topic: Senior Scams and Identity Theft Prevention
13. NYS Senator Sue Serino District Outreach (Red Hook)– Dutchess County
Topic: Senior Scams and Identity Theft Prevention

14. Tuckahoe Assisted Living – Westchester County
Topic: Senior Scams and Identity Theft Prevention
15. LIFE Conference - Low Income Forum on Energy – Albany County
Topic: All DCP Educational Materials

June

16. Aging Concerns Unite Us – Albany County
Topic: Senior Scams and All DCP Educational Materials
17. Catholic Charities of Brooklyn and Queens – Kings County
Topic: Senior Scams and All DCP Educational Materials
18. NYS Senator Martin Golden's Senior Fair – Kings County
Topic: Senior Scams and All DCP Educational Materials
19. NYC Department of Health and Mental Hygiene, Brownsville Neighborhood Health Action Center – Kings County
Topic: Senior Scams and All DCP Educational Materials
20. NYS Assemblymember Jo Anne Simon's Senior Resource Fair – Kings County
Topic: Senior Scams and All DCP Educational Materials

July

21. NYS Senator Brad Hoylman Senior Resource Fair – New York County
Topic: Senior Scams and All DCP Educational Materials
22. White Plains YMCA – Westchester County
Topic: Senior Scams and All DCP Educational Materials
23. JASA CIAA (Coney Island Active Aging) – Kings County
Topic: Senior Scams and All DCP Educational Materials

August

24. New York Police Department Community Resource Fair – New York County
Topic: Child Identity Theft and All DCP Educational Materials
25. NYS Senator Elaine Phillips District Outreach – Nassau County
Topic: Senior Scams
26. New York State Fair – Onondaga County
Topic: All DCP Educational Materials
27. NYS Senator Patrick Gallivan Senior Forum – Wyoming County
Topic: Senior Scams and All DCP Educational Materials

September

28. NYC Department for the Aging – New York County
Topic: Identity Theft

29. NYS Senator Sue Serino District Outreach (Putnam Valley) – Putnam County
Topic: Senior Scams and Identity Theft Prevention
30. NYS Senator Sue Serino District Outreach (Hopewell Junction) – Putnam County
Topic: Senior Scams and Identity Theft Prevention
31. Adult Abuse Training Institute (AATI) – Albany County
Topic: Senior Scams and Identity Theft Prevention

October

32. New York State MWBE Forum – Albany County
Topic: All DCP Educational Materials
33. Capital District Child Care Council (CDCCC) Conference – Rensselaer County
Topic: Tip Over Prevention
34. New York Council Annual Conference on Problem Gambling – Albany County
Topic: Identity Theft Prevention and Mitigation
35. NYS Senator John Brooks Golden Gathering – Nassau County
Topic: Senior Scams and All DCP Educational Materials
36. Kew Gardens Community Center – Queens County
Topic: Senior Scams
37. Island Park Senior Housing – Nassau County
Topic: Senior Scams
38. Post-Deployment Yellow Ribbon Event – Albany County
Topic: All DCP Educational Materials

November

39. Capital Region's 1st Annual Military Awareness Day – Albany County
Topic: All DCP Educational Materials
40. Bethlehem Public Library – Albany County
Topic: Identity Theft and Scam Prevention

December

41. Post-Deployment Yellow Ribbon Event – Cortland County
Topic: All DCP Educational Materials
42. Community Library of Dewitt and Jamesville – Onondaga County
Topic: All DCP Educational Materials

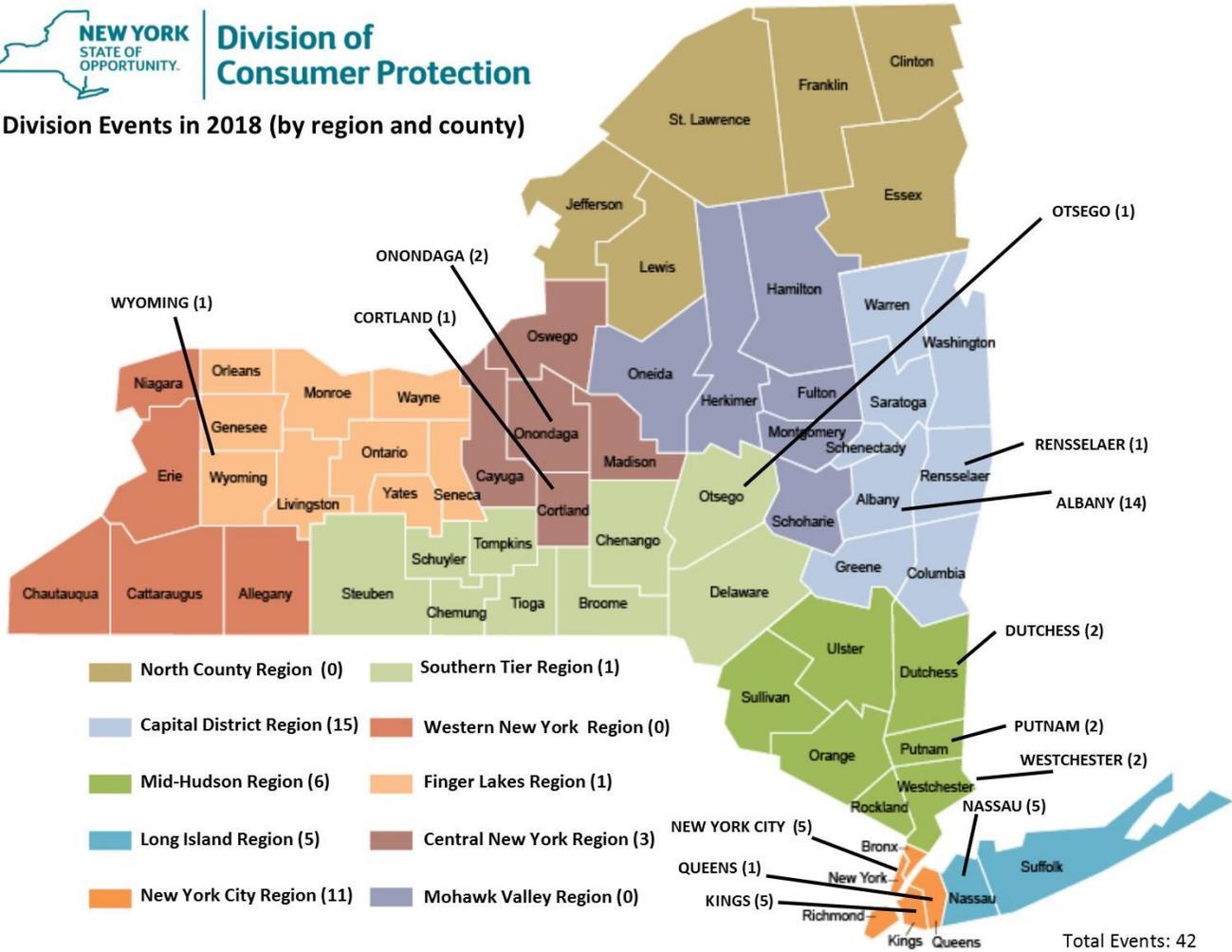
APPENDIX C

Division of Consumer Protection 2018 Outreach Events and Presentations



Division of Consumer Protection

Division Events in 2018 (by region and county)



Appendix D

Utility Intervention Unit 2018 Utility Rate Cases & PSC Proceedings

Case #	Company	Case Description	Category
18-M-0084	DPS /NYSERDA	In the Matter of a Comprehensive Energy Efficiency Initiative	Policy Case
18-G-0565	Con Edison	Tariff Filing by Consolidated Edison Company of New York, Inc. to Modify Its Gas Tariff Schedule, P.S.C. No. 9, Regarding the Interruptible Gas Service Program.	Petition
18-G-0140	St. Lawrence Gas	Joint Petition of Liberty Utilities Co. and St. Lawrence Gas Company, Inc. for Approval, Pursuant to Section 70 of the PSL, of the Acquisition of St. Lawrence Gas Company, Inc. by Liberty Utilities Co. and for Approval, Pursuant to Section 69 of the PSL, of the Issuance of Long-Term Indebtedness	Merger Case
18-G-0133	St. Lawrence Gas	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of St. Lawrence Gas Company Inc. for Gas Service	Rate Case
18-E-0138	DPS / NYSERDA	Proceeding on Motion of the Commission Regarding Electric Vehicle Supply Equipment and Infrastructure	Policy Case
18-E-0130	DPS / NYSERDA	In the Matter of Energy Storage Deployment Program	Policy Case
18-E-0067 & 17-G-0068	Orange & Rockland	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Orange and Rockland Utilities, Inc. for Electric and Gas Service	Rate Case
18-E-0018	DPS	In the Matter of Proposed Amendments to the New York State Standardized Interconnection Requirements (SIRs) for Small Distributed Generators	Policy Case
17-G-0606	Con Edison	Petition of Consolidated Edison Company of New York, Inc. for Approval of the Smart Solutions for Natural Gas Customers Program	Petition

Case #	Company	Case Description	Category
17-E-0594	NYSEG/RGE	Proceeding on Motion of the Commission to Investigate the March 2017 Windstorm, Related Power Outages, Case 17-E-0594 and Rochester Gas and Electric and New York State Electric & Gas Restoration Efforts	Settlement
17-E-0459 & 17-G-0460	Central Hudson	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Central Hudson Gas & Electric Corporation for Electric and Gas Service	Rate Case
17-E-0238 & 17-G-0239	Niagara Mohawk	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric and Gas Service	Follow-up Rate Case Collaboratives
17-E-0058 & 17-G-0059	NYSEG/RGE	Petition of New York State Electric & Gas Corporation and Rochester Gas and Electric Corporation for Authorization for Full-Scale Deployment of Advanced Metering Infrastructure and to Establish an Electric AMI Surcharge	Petition
17-01278	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Low and Moderate-Income Customers.	Policy Case
17-01277	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design.	Policy Case
17-01276	DPS	In the Matter of the Value of Distributed Energy Resources Working Group Regarding Value Stack	Policy Case
16-G-0058 & 16-G-0059	KeySpan Long Island & KeySpan New York	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of KeySpan Gas East Corporation and the Brooklyn Union Gas Company d/b/a National Grid for Gas Service	Follow-up Rate Case Collaborative
16-E-0060 & 16-G-0061	Con Edison	Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric and Gas Service	Follow-up Rate Case Collaborative
16-C-0122	Verizon	Proceeding on Motion of the Commission to Consider the Adequacy of Verizon New York Inc.'s Retail Service Quality Process and Programs	Policy Case
15-M-0180	DPS	In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products	Policy Case

Case #	Company	Case Description	Category
15-M-0127	DPS	Proceeding on Motion of the Commission to Assess Certain Aspects of the Residential and Small Non-residential Retail Energy Markets in New York State	Follow-up Filings for Policy Case
15-E-0082	Community Net Metering	Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program	Policy Case

ⁱ All DCP Educational Materials include consumer information for the Do Not Call Law, Identity Theft and Mitigation, Child Identity Theft Protection, Scam Prevention, Financial Literacy and Product Safety.